

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of )  
 )  
PACIFIC LIGHTNET, INC. ) Docket No. 03-0197  
 )  
Petition for Arbitration Pursuant to 47 U.S.C. )  
§ 252(b) of Interconnection Rates, Terms, and )  
Conditions With Verizon Hawaii Inc. )  
\_\_\_\_\_ )

PREHEARING ORDER NO. 20477

and

CERTIFICATE OF SERVICE

RECEIVED  
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DIV. OF CONSUMER ADVOCACY  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

Filed October 2, 2003

At 11:00 o'clock A.m.

Karen Hignel  
Chief Clerk of the Commission

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_____	)	

**PREHEARING ORDER**

This Prehearing Order shall govern this docket, and Pacific LightNet, Inc. ("PLNT"), Verizon Hawaii Inc. ("Verizon") and the Division of Consumer Advocacy (the "Consumer Advocate") (collectively, the "parties") shall comply with its terms.

**I.  
STATEMENT OF ISSUES**

The agreed-upon issues for the formal proceeding are attached to this order at Attachment "A." Some of the issues do not require testimony, and the parties intend to identify those issues that they will address in briefs only. In addition, the parties will inform the Public Utilities Commission of the State of Hawaii (the "Commission") when they are able to settle issues and thereby remove them from those to be addressed in this docket.

**II.  
ORDER OF PROCEDURE**

All testimony shall be in writing. Cross-examination of any witness shall be limited to one attorney for a party or participant. The parties shall avoid duplicate or repetitious cross-examination. There shall be no friendly cross-examination. Recross-examination of a

witness shall be limited to the material covered in redirect examination unless otherwise permitted by the Chairman.

Unless otherwise ordered by the Chairman, the examination of witnesses shall be limited to the following and shall take place in the following order:

All PLNI Direct and Rebuttal Witnesses

Direct examination by PLNI's counsel;  
Cross-examination by Verizon's counsel;  
Cross-examination by Consumer Advocate's counsel; and  
Redirect examination by PLNI's counsel.

All Verizon Direct and Rebuttal Witnesses

Direct examination by Verizon's counsel;  
Cross-examination by PLNI's counsel;  
Cross-examination by Consumer Advocate's counsel; and  
Redirect examination by Verizon's counsel.

### **III. WITNESSES**

Witnesses submitting written testimony and exhibits shall be made available for cross-examination at the hearing and depositions. Witnesses may have the work papers used in preparing the evidence they sponsor available at the hearing. Witnesses will not be permitted to read prepared testimony at the hearings. Witnesses who will present oral direct, reply and/or rebuttal testimony must present said testimony at the same time.

In the presentation of the testimony, each witness may give a brief summary of the testimony and exhibits and shall summarize the issues raised by such testimony. Each witness shall be subject to cross-examination for direct and/or rebuttal testimony and exhibits.

The parties in this case should cooperate to accommodate the schedules of any mainland witnesses and should inform the Commission in advance of any scheduling difficulties of mainland witnesses. If any party has any objection to scheduling a witness in advance of other witnesses, the party should make a timely objection to the Commission.

#### **IV. TESTIMONY AND EXHIBITS**

All written testimony, including exhibits of witnesses, shall be submitted upon paper 8-1/2 x 11 inches in size, with lines numbered, and shall be served on dates designated in the Schedule of Proceedings. The written direct testimony shall provide a party's affirmative position on an issue (e.g., support of a cost study sponsored by that party). The written rebuttal testimony shall be strictly limited to responding to matters raised in another party's direct testimony. Except as provided in section V, below, no new information, evidence, or testimony may be introduced in rebuttal testimony. A party shall not be precluded from submitting written rebuttal testimony on the basis that the party did not submit written direct testimony. When filing any testimony, the parties shall simultaneously provide all workpapers and supporting documents as part of the testimony.

The testimony and exhibits shall include appropriate footnotes or narratives setting forth the information depicted, explaining details, and the methods employed in preparing any statistical computations and estimates.

Each party may follow its own numbering system for written testimony and exhibits, provided the numbering system utilized is consistent and clearly understandable. The parties shall prepare a table listing each written testimony, and each exhibit by title, and identifying the witness sponsoring the testimony and the exhibit.

The exhibit number and the docket number of the proceeding shall be shown in the upper right-hand corner of each page. Each exhibit shall be submitted on a separate page.

#### **V. CHANGES TO TESTIMONY AND EXHIBITS**

A party introducing new matters to its written testimony and exhibits, whether by way of revisions or supplements shall attach a sworn affidavit explaining why these matters were

not originally submitted. The Commission may, if the explanation is unreasonable, reject the amended testimony or exhibits.

## **VI. ADMISSIONS OF FACT AND MATTERS OF PUBLIC RECORD**

Documents identified as matters of public record may be offered as evidence to avoid unnecessary proof and to facilitate these proceedings. The following documents may be identified as matters of public record: (1) public financial reports, tariffs, previously submitted written testimonies and exhibits filed with this Commission and the Department of Commerce and Consumer Affairs; (2) published decisions issued by state and federal agencies; (3) published scientific or economic statistical data, material and textbooks and technical or industrial journals; and (4) specified parts of the official record of previous proceedings of this Commission.

The matter intended to be offered as evidence must be clearly identified by reference to the date and place of publication and the file or docket number. The identified document must be available for inspection by the parties. Parties shall have the right to explain, qualify or conduct cross-examination with respect to the identified material. The Commission will rule on whether specified and identified material can be admitted into the evidence when a party proffers such material for admission as evidence.

From time to time, the parties may enter into stipulations that material, meeting the above criteria, or any portion of such material may be introduced into evidence.

## **VII. REQUESTS FOR INFORMATION**

A party to this proceeding may submit information requests to another party within the time schedule specified in this Prehearing Order. After the scheduled date for submitting information requests has passed, no additional requests for information shall be allowed except upon stipulation by the parties or by approval of the Commission upon good cause shown. Each party shall be limited to 30 information requests and 30 requests for production of documents, and such totals include all subparts. The parties shall use their best

efforts to serve all discovery requests and responses by electronic means. Electronic service shall be deemed timely made if sent no later than 8:00 p.m. Eastern time on the 14<sup>th</sup> day following the request. Where electronic delivery is not possible (as may be the case with some responses to requests for document production), the responding party shall serve its response by overnight delivery such that the response is received no later than the 15<sup>th</sup> day following the request.

In responding to an information request, a party shall not be required to provide data that is already on file with the Commission or otherwise identified as a matter of the public record. The responding party shall provide the docket number and filing date or other identifying information to the requesting party. A party shall not be required to recalculate, trend, reclassify or otherwise rework data contained in its files, unless otherwise ordered by the Commission.

A party may object to responding to an information request seeking information that it deems irrelevant, immaterial, unduly burdensome, onerous, or repetitious, or otherwise claimed to be privileged or subject to protection (confidential information). If a party claims that information requested is confidential, and withholds production of all or a portion of such confidential information, the party shall: (1) provide information reasonably sufficient to identify the confidential information withheld from the response, without disclosing privileged or protected information; (2) state the basis for withholding the confidential information (including, but not limited to, the specific privilege applicable or protection claimed for the confidential information and the specific harm that would befall the party if the information were disclosed); and (3) state whether the party is willing to provide the confidential information pursuant to the protective order.

Parties seeking production of documents notwithstanding a party's claim of confidentiality may file a motion to compel production with the Commission.

Subject to objection, responses to the information requests of the party may be introduced into evidence.

The parties are encouraged to meet informally to work out problems with respect to understanding the scope or meaning of an information request or with respect to the availability of information. If a party is unable to provide the information within the time specified in the Schedule of Proceedings, it should so indicate to the inquiring party as soon as possible and the parties shall endeavor to agree upon a later date.

Responses to information requests that would require the reproduction of voluminous documents or materials may be made available for reasonable inspection and copying at a designated location. In the event such information is available on computer diskette or other readily available electronic medium, the party responding to the information request may make available the diskette or other readily available electronic medium to all parties and the Commission.

The responses of each party shall adhere to a uniform system of numbering. For example, a response to an information request from PLNI shall be designated "Response to PLNI-IR- ."

To the extent that any response to an information request is believed to be non-responsive or incomplete, the requesting party shall first contact the responding party to informally discuss the matter in an effort to determine the basis for the response. If, despite such efforts, the parties are unable to reach a resolution on the matter, the requesting party may file a motion to compel a response from the responding party. In the event that the Commission grants the motion to compel, the requesting party reserves the right to either (a) modify the schedule of proceeding to accommodate for the delay due to the actions of the non-responsive party or

(b) supplement any filing affected by the non-responsive or incomplete response when the information becomes available.

## **VIII. COPIES OF TESTIMONY EXHIBITS, INFORMATION REQUESTS**

Copies of testimony, exhibits, information requests and responses to information requests shall be filed with the Commission and served on each party as follows:

Commission	Original + 8 copies
Division of Consumer Advocacy	2 paper and one electronic copy
All other parties	1 paper and one electronic copy

Each party shall provide copies of its filings to the other parties on an expedited basis. This means that, where practicable, copies of the filings should be sent to the other parties by hand-delivery, via facsimile or e-mail in a standard electronic format that is readily readable by the parties. If service is to or from an off-island (Oahu) location, the serving party shall send a copy of the filing via express delivery. Each party must provide electronic addresses for e-mail purposes to the other parties. If workpapers, documentation or exhibits attached to any filing are not readily available in an electronic format, a party shall not be required to convert such workpapers, documentation or exhibits to an electronic format.

## **IX. SCHEDULE OF PROCEEDINGS**

The parties agree that they require more time to put forth their respective cases than would have been permitted under the nine-month statutory window,<sup>1</sup> which is set to close on or about October 28, 2003. The schedule below reflects the parties' intent to extend the statutory

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<sup>1</sup> Section 252(b)(4)(C) of the Telecommunications Act of 1996 provides, in pertinent part, that "[t]he State commission . . . shall conclude the resolution of any unresolved issues not later than 9 months after the date on which the local exchange carrier received the request under this section."

window by approximately three months. The parties shall adhere to the following schedule of proceedings:

October 10, 2003	Pre-filed direct testimony due. Discovery window opens.
November 14, 2003	Pre-filed rebuttal testimony due.
December 3, 2003	Discovery window closes (all requests must be received by November 19, 2003).
December 8 - 19, 2003	Hearing at the call of the Commission. The parties anticipate that the hearing will require no more than three days.
Two weeks after hearing	Opening post-hearing briefs due.
Two weeks after opening	Reply post-hearing briefs due.

## **X. COMMUNICATIONS**

Communications among the parties may either be through counsel or through the persons designated below:

### **PLNI:**

Laura A. Mayhook, Esq.  
J. Jeffrey Mayhook, Esq.  
Mayhook Law, PLLC  
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La Center, WA 98629

Lisa Suan  
Pacific LightNet, Inc.  
737 Bishop Street, Suite 1900  
Honolulu, HI 96813

### **Verizon:**

Joel K. Matsunaga  
Vice President-External Affairs  
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Washington, DC 20006

Leslie Alan Ueoka, Esq.  
Assistant General Counsel  
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P.O. Box 2200  
Honolulu, HI 96841

**XI.  
GENERAL**

These procedures are consistent with the orderly conduct of this docket. Pursuant to Section 6-61-37 of the Commission's Rules of Practice and Procedure, the Prehearing Order shall control the subsequent courses of the proceedings, unless modified at or prior to the hearing to prevent manifest injustice.

The Commission reserves the right, due to the complexities of the case, to require workpapers (or other information) to be submitted for the record during or after hearings.

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PACIFIC LIGHTNET, INC.	)	Docket No. 03-0197
	)	
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§ 252(b) of Interconnection Rates, Terms, and	)	
Conditions With Verizon Hawaii Inc.	)	
_____	)	

**ATTACHMENT "A" - STATEMENT OF ISSUES**


- ISSUE 1:** Whether the CLEC Handbook and operating guidelines published on Verizon's website should be incorporated by reference in the final interconnection agreement. (GT&C §§ 1.1 – 1.2)
- ISSUE 2:** Whether PLNI should be required to reimburse payments made by Verizon if those payments are later found not to be required by applicable law. (GT&C § 4.7)
- ISSUE 3:** Whether Verizon's proposed notice period relating to discontinuance of service satisfies the Commission's rules concerning length of notice to end users. (GT&C § 4.7, UNE Attachment § 1.5)
- ISSUE 4:** Whether the amount of a contingent letter of credit should reflect past due or delinquent amounts or the entire monthly billings from Verizon to PLNI. (GT&C § 6.3)
- ISSUE 5:** Whether a party experiencing network impairment should allow the interfering party an opportunity to cure the interference before suspending service. (GT&C § 26.3.1)
- ISSUE 6:** Whether Verizon's performance under the agreement should be subject to performance standards and corresponding remedies. (GT&C § 31.1)

- ISSUE 7:** Whether Verizon should be required to transport its originating traffic to a point of interconnection on PLNI's network. (various provisions, see Exhibit A)
- ISSUE 8:** How should various types of traffic be assigned to trunk groups for interconnection purposes? (Interconnection Attachment §§ 2.2.1.1, 2.2.1.2, 3.3)
- ISSUE 9:** Whether the ordering party should be responsible for charges resulting from conversion of trunk-groups from one-way to two-way or vice versa. (Interconnection Attachment § 1.2.3)
- ISSUE 10:** Whether Verizon's proposed "Transition to New Interconnection Arrangements" provision equitably allocates any costs that may arise in the course of establishing new or different point(s) of interconnection. (Interconnection Attachment 2.5)
- ISSUE 11:** Whether virtual foreign exchange (VFX) traffic should be included in the definition of Reciprocal Compensation Traffic. (various provisions, see Verizon Exhibit A)
- ISSUE 12:** Whether the Network Elements Attachment should include specific provisioning intervals for Unbundled Network Elements. (UNE § 1.8)
- ISSUE 13:** Whether PLNI should be permitted to perform cross-connects between PLNI and Verizon terminal blocks for the purpose of accessing Verizon's House and Riser Cable. (UNE § 7.3)
- ISSUE 14:** Whether Verizon proposed 10-day period for reserving dark fiber should be extended to 90 calendar days. (UNE §§ 8.2.5.2, 8.2.5.4, 8.2.16 & 8.2.19.2)
- ISSUE 15:** Whether PLNI, when accessing Verizon's dark fiber, should be required to collocate at every Verizon central office through which Verizon routes the dark fiber. (UNE § 8.2.1)
- ISSUE 16:** Whether PLNI should be permitted to access Verizon's dark fiber at splice points. (UNE § 8.2.2)


- ISSUE 17:** Whether Verizon should be required to terminate all unused fibers to a fiber patch panel. (UNE § 8.2.2)
- ISSUE 18:** How many fibers should Verizon be permitted to reserve as maintenance spares? (UNE § 8.2.10)
- ISSUE 19:** Whether Verizon should be subject to a non-recurring charge when it fails to arrive timely for scheduled work activity. (UNE §§ 1.7, 7.4, 7.6)
- ISSUE 20:** Whether Verizon's subsequent tariff filings should automatically modify the rates stated in Appendix A. (Pricing Attachment §§ 1.3 and 1.5)
- ISSUE 21:** Whether PLNI's charges for services provided to Verizon pursuant to this agreement should be capped at the amount of Verizon's charges. (Pricing Attachment § 3)
- ISSUE 22:** Do Verizon's non-mandated rates in Appendix A comply with TELRIC cost methodology. (Pricing Attachment, Appendix A)
- ISSUE 23:** Whether, in cases where PLNI orders several Network Elements together as a combination, charges should apply to a single Network Element before the entire combination has been provisioned. (UNE § 16.2)
- ISSUE 24:** Whether Verizon should be permitted to request additional negotiations after the effective date of the agreement for services it has not yet provided in the state of Hawaii. (GT&C § 18, Interconnection § 16, UNE § 18)

APPROVED AND SO ORDERED this 2nd day of October, 2003.


PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By:   
Carlito P. Caliboso,  
Chairman

By: (EXCUSED)  
Wayne H. Kimura,  
Commissioner

By:   
Janet E. Kawelo,  
Commissioner

APPROVED AS TO FORM:

  
Catherine P. Awakuni  
Commission Counsel

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing  
PREHEARING ORDER NO. 20477, upon the following party(s), by causing a  
copy hereof to be mailed, postage prepaid and properly addressed.

Division of Consumer Advocacy  
Department of Commerce and Consumer Affairs  
P.O. Box 541  
Honolulu, HI 96809

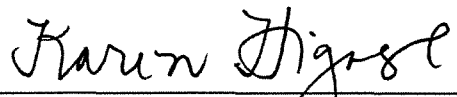
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Karen Higashi, Chief Clerk

DATED: October 2, 2003